

# WARREN COUNTY BOARD OF SUPERVISORS

## COMMITTEE: REAL PROPERTY TAX SERVICES

DATE: MARCH 24, 2011

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**COMMITTEE MEMBERS PRESENT:**

SUPERVISORS GOODSPEED  
BENTLEY  
LOEB  
MONROE  
MCDEVITT

**OTHERS PRESENT:**

MICHAEL SWAN, DIRECTOR, REAL PROPERTY TAX SERVICES  
DANIEL G. STEC, CHAIRMAN OF THE BOARD  
PAUL DUSEK, COUNTY ATTORNEY/ADMINISTRATOR  
JOAN SADY, CLERK OF THE BOARD  
SUPERVISORS CHAMPAGNE  
CONOVER  
STRAINER  
TAYLOR  
THOMAS  
BUD YORK, WARREN COUNTY SHERIFF  
DON LEHMAN, *THE POST STAR*  
AMANDA ALLEN, SR. LEGISLATIVE OFFICE SPECIALIST

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Mr. Goodspeed called the meeting of the Real Property Tax Services Committee to order at 9:30 a.m.

Motion was made by Mr. Bentley, seconded by Mr. Loeb and carried unanimously to approve the minutes from the prior Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Michael Swan, Director of Real Property Tax Services, who distributed copies of the meeting agenda to the Committee members, a copy of which is also on file with the minutes.

Commencing his review with Item IIIA, Mr. Swan announced there were no corrections from the Treasurer's Office to discuss. Moving on to Agenda Item IIIB, he presented a request for a new contract with Northco Products, Inc. in an amount not to exceed \$3,500 for the term commencing April 15, 2011 and terminating April 14, 2012, to bulk plot the 2011 tax maps. Mr. Swan noted that these maps were distributed to the towns and the City of Glens Falls annually and that funding for the proposed contract was included within the existing budget under Code A.1970 410, Supplies to Towns.

Motion was made by Mr. Bentley, seconded by Mr. Monroe and carried unanimously to approve the request for a new contract with Northco Products, Inc. as outlined above, and the necessary resolution was authorized for the April 15<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes.*

Mr. Swan apprised that Agenda Item IIIC consisted of a request to amend Resolution No. 625 of 2007 to change the last day to redeem delinquent property tax payments from the standard second Friday in July to August 5<sup>th</sup> and the date of the Last Chance Meeting from the second Monday in August to August 15<sup>th</sup>, for the current year only. He explained the extensions were being requested because there had been insufficient funding in the budget to begin the abstracting work for the foreclosure process in 2010 as they typically did, and the work had been delayed until 2011.

Motion was made by Mr. Loeb, seconded by Mr. Monroe and carried unanimously to approve the request to amend Resolution No. 625 of 2007 as previously noted and the necessary resolution was authorized for the April 15<sup>th</sup> Board meeting. *A copy of the request is on file with the minutes.*

Moving on, Mr. Swan addressed Agenda Item IV, Pending Items, which he outlined as follows:

- A) Mr. Swan announced that the taxable status of three parcels located within the County, all having the potential for environmental problems, had changed from taxable to wholly exempt status until such time as they were either cleaned up or found not to have any environmental problems. He advised that this action would stop the County from having to make the towns and schools whole for the taxes owed on these parcels. Mr. McDevitt said he was aware of the property located on Bay Road in the Town of Queensbury, but questioned where the other two potentially contaminated properties were located, to which Mr. Swan responded that one was located in the Town of Johnsbury, previously housing an automotive dealership/service center, and the other was the former Town of Hague landfill which had been sold to a private individual.

Mr. Monroe said a better solution should be determined for these properties as another had been recently identified in the Town of Chester on which a building with a collapsing roof was located that required demolition. He noted although the Town of Chester could undertake the demolition and cleanup process themselves, they would be doing so at their own cost as it was unlikely any of the expense would be recovered because the current property owner had declared bankruptcy. Mr. Monroe further noted that attempts had been made to sell the property; however, its prior use as a gas station and the presence of an underground fuel storage tank had deterred any interested parties. He stated that better Legislation was necessary to alleviate these issues so the County and Towns would not be held responsible for clean-up and unpaid property tax costs in cases such as these.

Mr. Swan agreed that this was a problem, but noted that all of the Counties in New York State were facing similar predicaments. Using Albany County as a prime example, Mr. Swan apprised that they were dealing with approximately 1,500 parcels designated in this manner.

Paul Dusek, County Attorney/Administrator, noted that Warren County was very fortunate to have a minimal number of these properties to deal with and noted that at some point, the environmental clean-up would be necessary. He said that the only solutions were either for the Town to proceed with the necessary work, or transfer ownership of the property to a private individual at no cost, following which the citizen would undertake the clean-up work independently, as had been done in recent years with a parcel located in the Town of Lake Luzerne. The problem with this action, Mr. Dusek noted, was that it opened the County up to possible exposure through the required foreclosure process. He said that in the instance of the Lake Luzerne parcel, there had not been a substantial potential for exposure and he felt two of the parcels identified by Mr. Swan, as well as the one Mr. Monroe had noted, might qualify for a similar procedure, depending on the extent of the hazard potential; however, he noted, it definitely could not be undertaken in the case of the former Town of Hague landfill property. Mr. Dusek advised the County may be able to proceed with a foreclosure action without taking possession of the property deed, but noted that the foreclosure law was written with anticipation of deed acceptance, a process he did not have a high comfort level with. Mr. Goodspeed noted that once the County accepted the deed for the property, even if only for the briefest time, they were included in the chain of title and would be responsible for a portion of any mandated clean-up costs.

Mr. Swan advised that the person who had bought the Lake Luzerne parcel Mr. Dusek referred to contacted his Office frequently in search of similar properties which could be acquired for little or no cost. He said that two such properties had been identified during the previous year and he had referred both to this gentleman for purchase prior to the foreclosure process. He noted that if there was someone in possession of the deed for the Chester parcel identified by Mr. Monroe, contact could be made with the two parties in an effort to progress a sale of the property without necessitating a foreclosure process. Mr. Monroe said that he did have contact information available and would forward it to Mr. Swan.

Referring to the parcel located on Bay Road in the Town of Queensbury, Mr. Taylor questioned whether its location adjacent to the Warren County Bike Trail would make it eligible for grant funding through a possible parks program to facilitate clean-up work. Mr. Dusek said he did not know if this was possible and suggested that the issue be referred to the Planning & Community Development Committee for further discussion as they typically sought out these types of grant opportunities.

Mr. Thomas questioned whether there was legislation in place to reverse liability to property owners in cases such as these so that the County and taxpayers were not responsible for clean-up costs and Mr. Dusek replied that although they were ultimately held responsible for the costs, the property owners were sometimes assetless corporations or bankrupt individuals from which financial restitution could not be obtained. Mr. Thomas responded with his opinion that in these cases, jail sentences should be mandated to ensure some type of punishment.

Discussion ensued, following which the Committee determined that the issue of possible grant funding for clean-up of the property located on Bay Road in the Town of Queensbury should be forwarded to the Planning & Community Development Committee for further review.

Mr. Monroe noted that there was legislation in place which allowed the State to complete clean-up work for properties designated as having environmental issues with those costs being relayed back to the prior property owners and he said he thought the State was not proceeding with this work due to budget constraints. Mr. Dusek advised it was his understanding that the State typically attempted to address the properties with the highest levels of contamination first, but limitations in funding and manpower hampered these efforts. He added that it might be appropriate to forward a letter to NYSDEC (New York State Department of Environmental Conservation) questioning why these issues had not been addressed for the properties identified by Mr. Swan in an effort to at least elicit a response on the matter.

As the Committee was in agreement, Mr. Swan advised that he would forward a letter to NYSDEC as suggested by Mr. Dusek.

- B) Relative to prior discussion on the possibility of a County-wide re-assessment project, Mr. Swan advised that the initiative would likely not occur due to a lack of necessary funding in the proposed State Budget; he added that the Assessors for the Towns of Bolton and Lake George had indicated they would endeavor to pursue re-evaluations independently for 2012. Mr. Goodspeed noted that the Town of Johnsburg had desired to proceed with a re-assessment, as well, but had ceased any work on the issue upon finding there would be no State reimbursements available.

Proceeding, Mr. Swan reviewed Agenda Item V, New Business/Updates, as follows:

- A) Over the past few years, Mr. Swan advised, his Office had seen a large increase in the number of deeds filed with incorrect descriptions, requiring additional deeds to be filed for corrections. He said that several surrounding Counties had implemented a process which required staff to check the deeds prior to filing to ensure accuracy and he sought permission from the Committee to discuss the issue with the County Clerk in consideration of introducing a similar procedure in Warren County. Mr. Swan noted that the other Counties had instituted a fee in connection with the new process which could serve as an additional revenue stream if implemented; he pointed out that a fee of \$5.00 for the approximately 4,000 deeds filed each year would gain a total annual revenue in the neighborhood of \$20,000 annually. In closing, Mr. Swan advised that additional research and development of stringent procedures would be necessary before this action could be implemented and he had introduced the issue to determine whether the Committee was in favor of the initiative before

proceeding.

Mr. Monroe opined that before moving ahead with Mr. Swan's proposed procedure, they would need to determine whether the County had the responsibility of deciding if deed descriptions were correct and he noted there might be problems if incorrect judgements were made on the matter causing delays for the deed filer, specifically in cases of competing deeds where the first one filed became permanent. He added that in such cases, the County might open itself up to liability issues if one person was told they could not file a deed and the person with the competing deed was able to do so shortly thereafter. Mr. Swan reiterated there were a number of concerns to be addressed and procedures to be developed before the process could actually be implemented and he was simply seeking an indication from the Committee as to whether they preferred that he proceed with the necessary research or disregard the initiative.

Mr. Loeb said that although he did not have extensive knowledge on the competing deeds issue, he felt that Mr. Swan's suggestion was reasonable and could represent a considerable revenue stream to the County. However, he added, he recommended that the attached fee be reconsidered to appropriately represent additional costs to the County for staff time, possibly raising the designated fee to \$50 or \$100 per correction transaction.

In connection with Mr. Monroe's prior statements, Mr. Goodspeed pointed out there were instances when the Clerk accepting the deeds could inappropriately refuse a deed for filing based on an error in their review and noted that the County could be held liable for unnecessary delays. Another issue for consideration, he said, was how quickly this procedure could be completed as many contracts required specific filing deadlines that must be met in order to avoid fees compounded daily after the indicated filing date, which could also present increased liabilities to the County if it were determined the deed was inappropriately declined by the reviewing Clerk. Mr. Goodspeed advised that while he felt they should continue to research and consider the issue, he shared some of Mr. Monroe's concerns with the liability exposure this process might present.

Mr. Monroe said he did not believe the County was obligated to ensure that the deeds included proper descriptions and were required to accept them as long as they were presented in proper form, leaving any inconsistencies in descriptions or information to be corrected by the individual filing or their attorney. Additionally, he advised, they should determine what the actual cost to the County was for secondary filings as he assumed that corrective filings incurred a charge. Mr. Dusek confirmed that the standing advisements to the County Clerk's Office had consistently been that they were required to accept the filed deed as long as it was in proper form and noted that the law prohibited them from refusing a deed based on the descriptions included. He added that if the deed was refused and the filer incurred a subsequent expense for the delay, the County could be held liable for the associated costs. Additionally, Mr. Dusek said he was concerned that they would be asking staff without any legal background to review deeds and make determinations, further exacerbating the exposure in the case of competing claims if an incorrect judgement was made. Having said that, he noted that if the other Counties had instituted procedures addressing all of the adverse issues cited, he felt they could review the procedure, as well, and determine whether it was appropriate for Warren County.

Mr. Goodspeed suggested that instead of introducing an initial review process, they summarily create local legislation that would increase the recording costs for correction deeds. With this procedure, he said, the mistakes would be found and corrected in a manner that would not cause time delays while still allowing for recovery of additional costs. Mr. Dusek agreed that this would also provide incentive for anyone filing the deed to ensure accuracy to avoid increased costs.

Mr. Swan advised he would research the matter further and present any new information at a future Committee

meeting.

Mr. Goodspeed apprised that Essex County had recently introduced new legislation which allowed them to increase their Transfer Gains Affidavit recording fees from \$4 per \$1,000 transferred to \$6 with the additional \$2 being retained by the County. Mr. Swan said that while he agreed this was a good idea, it would have to be addressed by the County Clerk-Motor Vehicles Committee as the County Clerk collected these revenues.

As the Committee was in agreement, Mr. Goodspeed announced that the matter would be referred to the County Clerk-Motor Vehicles Committee for further consideration.

- B) Mr. Swan advised that if the current proposed State Budget was adopted, there would be no education reimbursement or State aid for federal reassessment projects. Mr. Thomas questioned whether this lack of funding would pertain to continuing education for the town Assessors and Mr. Swan replied affirmatively. Mr. Thomas said it appeared that this would be yet another unfunded mandate handed down by the State because although they required certain certifications for Assessor positions, they would be providing no assistance for the costs associated with the related continuing education.

Mr. Bentley questioned whether there was any new information available relative to the rental of the Ciba Geigy property to Perkins Recycling. Mr. Dusek reported that the lease on the property would expire during the upcoming summer season and the matter would be referred to either the County Facilities or Public Works Committee for further discussion. He said his concern with the property had consistently been the potential liability exposure to the County if the property was not managed in strict accordance with the deed conveyance. Mr. Dusek apprised that in 1991, when the County accepted the property, they had given a full indemnification and defense of Ciba Geigy for the parcel, promising that if anything happened on the property they would be protected; he added that this indemnification had no expiration attached. There were a number of restrictions listed in the deed transfer as to what activities could and could not occur on the property, Mr. Dusek advised, and he said his advice to the Board was to retain the property and either use it for County business or lease it as they were currently, in a manner which maintained strict control over the use of the property. He noted his awareness of the desire of Perkins Recycling to acquire the property, but maintained his opinion that it should not be released or transferred as a future occurrence on the property could lead to a considerable liability exposure to the County. Mr. Strainer asked if Perkins Recycling desired to continue the lease agreement and Mr. Dusek replied that he did not know if this was the case and had yet to discuss the matter with them.

A brief discussion ensued.

As there was no further business to come before the Committee, on motion made by Mr. Loeb and seconded by Mr. Bentley, Mr. Goodspeed adjourned the meeting at 10:05 a.m.

Respectfully submitted,  
Amanda Allen, Sr. Legislative Office Specialist